

FINAL MINUTES
California State Board of Education
November 7-8, 2001

Thursday, November 8, 2001

Department of Education Building
721 Capitol Mall, Room 166
Sacramento, CA 95814

Members Present

Reed Hastings, President
Susan Hammer, Vice President
Erika Goncalves
Nancy Ichinaga
Carlton J. Jenkins
Marion Joseph
Joe Nuñez
Suzanne Tacheny

Members Absent

Robert J. Abernethy
Donald Fisher
Vicki Reynolds

Call to Order

President Hastings called the meeting to order at 8:37 a.m.

Salute to the Flag

President Hastings invited Ms. Goncalves to lead the members, staff, and audience in the Pledge of Allegiance

Announcements/Communications

President Hastings reminded the audience that Item 20 had been rescheduled and would be heard after the Superintendent's report.

Superintendent's Report

Superintendent Eastin reported on the impact of the state budget cuts on the Department's budget and outlined some of the program changes that would be made by the Department. State agencies have been asked to submit budget reduction plans for a 15 percent budget cut. That 15 percent equals approximately \$7 million in General Fund reductions to the Department. Because of federal maintenance of effort requirements, the Department must continue to provide state funding matches for some federally funded projects or risk the loss of all of the funds. There is a statewide hiring freeze. The Department has been asked to cut \$2 million from the current year budget. The Department's response includes restricting overtime, travel, contracts, and purchases. Superintendent Eastin informed the Board that Department staff could not afford to travel out of Sacramento for meetings. She compared the Education Department's budget to budget of other state agencies. [Attachment 8.]

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Mr. Mockler commented that the Superintendent had provided an initial vision of what happens when there is a \$13 billion budget shortfall. He added that the Board will need to be cognizant of the impact of the budget cuts on the Department's ability to do work.

Closed Session Report

Ms. Belisle reported that the Board discussed *Chapman, et al., v. California Department of Education, et al.*, and *Comité de Padres de Familia v. Honig*. No action was taken.

ITEM 20	Report to the Board on recommendations regarding the Special Education Schools and Centers Model in the Alternative Accountability System.	INFORMATIO N
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Mary Weaver, Education Support Systems Division, introduced Vicki Barber, El Dorado County Superintendent of Schools, who presented the item to the Board. Ms. Barber reported that the committee working on the alternative accountability system believes that special education programs in special education schools and centers have sufficient accountability measures at this time and there is no need for additional measures. Ms. Barber commended the Department, especially the Special Education Division, for their work on the alternative accountability system.

Ms. Barber explained that for 2002-03, there will be Individualized Education Program based assessment, the California Alternative Performance Assessment (CAPA), for students who are unable to participate in STAR. Currently work is being done to develop a CAPA that is more aligned to STAR than the current alternative assessment.

President Hastings thanked Ms. Barber for her presentation and for the work being done on the alternative accountability system.

ITEM 27	Proposed Rulemaking for English Learner Regulations	ACTION
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Mr. Mockler informed the Board that Board staff and Department staff attended several meetings with advocacy groups to address the concerns expressed at the October meeting. Board staff listened carefully to the concerns raised in those meetings and made changes to address those concerns as appropriate. The result is the revised proposed regulations for English learners before the Board today. The revised proposed regulations clarify many issues for districts.

Mr. Mockler read for the record the cover memo to Superintendent Eastin that accompanied the revised proposed regulations. [Attachment 9.] Mr. Mockler commented that, because of those meetings, the revised proposed regulations are better than what had been before the Board in October. He thanked the advocate groups for their passion for students who are English learners. He recognized Ms. Belisle's outstanding work on these revisions. He concluded his comments by stating that he recommends that the Board send out the revised proposed regulations for 45-

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day public review, which allows for additional public comment.

The following individuals spoke on this item:

Peter Schilla, representing Californians Together

Norma Montañño, parent

Gerardo DeGuzman, parent

Maria E. Peralta, parent

Enrique Mendez Flores, parent

Mary Hernandez, representing META

Holly Covin, representing the California School Boards Association

Rose Casselman, representing the Association of California School Administrators

President Hastings thanked Obulida Solis for providing translation services for the Board.

In response to a comment made by one of the speakers, Ms. Hammer asked why language on alternative programs was added to the revised proposed regulations. Ms. Belisle clarified the issue, explaining that schools must make alternative programs available and must provide a full description of the program. The issue is whether the school is required by statute to provide *an* alternative program or different individual alternative programs as requested by parents for each and every student. Schools cannot provide an endless number of different alternative programs with their limited resources. Moreover, the statute does not require it. To add this requirement would create a state mandate, which would require state reimbursement. The language stating that parents select from alternatives offered by the schools was added to clarify this issue.

For clarification, Ms. Hammer asked Ms. Belisle whether the language in the revised proposed regulations eliminates parental choice. Ms. Belisle responded that it did not. She added that the statute requires parental choice. These revised proposed regulations reiterate and reaffirm parental rights. Ms. Hammer inquired about the materials for parents. Ms. Belisle noted that the statute requires schools to provide a full description of their programs at the school site. She added that she thought that a brief description of the program being included in the notice to parents was a good policy and provided effective notice. However, the advocate groups did not want to change the language but asked to retain the current regulations, which the revised proposed regulations would retain. Ms. Belisle cautioned that if the Board mandates that schools send out the full description, beyond making the full description available to the parents at the school site, the state will have to pay for it. It is a state mandated cost issue.

Ms. Hammer asked about the deletion of certain references to sections of the Education Code that were mentioned by one of the speakers. Ms. Belisle replied that the Education Code sections referenced in the revised proposed regulations are Education Code sections that are currently in effect and operative. The revised proposed regulations reference the section 62000 et seq. area of the Education Code as the Board's authority. The Education Code section references that were deleted were references to sunsetted Education Code sections, which are not operative and would not provide the Board with the authority to promulgate regulations.

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Ms. Hammer inquired about the statewide standard referenced in a speaker's comments. Ms. Belisle responded that the speaker was referring to the statewide empirically established standard required by Education Code section 313(d)(4). Setting this standard requires data that is not yet available. We need the data from the fall 2001 English Language Development Test (CELDT) to establish the range of performance required by the statute. The Board is committed to setting a statewide standard as required by Senator Alpert's legislation. The proposed regulations note this commitment in the criteria.

As to the speaker's comment to include the cut score from the CELDT in the regulations, Ms. Belisle noted that the Board did provide guidance on when districts should begin to look to reclassification of English learners based on their CELDT scores back in May. However, as the Board noted at that time, these actions were based on field test data and thus were viewed as preliminary guidance. Ms. Belisle recommended that the Board wait until the data from the full fall 2001 CELDT administration are available to determine whether to put those cut scores in regulations.

Mr. Nuñez commented that the Board is constrained by the law. Proposition 227 is the law of the land. He expressed concern about parents being able to demand many different alternative programs, which would create chaos in the schools. He expressed his support for the inclusion of parental advisory groups in the regulations. He added that he supports moving forward with the approval of the 45-day public review period and continuing the public discussion.

Mr. Mockler noted that many of the speakers' comments may be good policy but they raise two issues for the Board. First, many of the suggestions are beyond the authority of the current statute; and second, the suggestions create unfunded state mandates. This Board does not have the authority to do either. These are policy issues to be debated in the Legislature, not imposed through regulations by this Board.

Ms. Goncalves commended the parents who came to speak to the Board and said that she believes their children appreciate their efforts and involvement.

- ACTION: Mrs. Joseph moved that the State Board approve the Notice of Proposed Rulemaking with the text of the regulations circulated in accordance with the Administrative Procedure Act to be set forth in the memorandum from the Executive Director to the State Superintendent (dated November 2, 2001). [The regulations will return to the State Board for public hearing on January 10, 2002.] Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 28	General Educational Development (GED): Including, but not Limited to, Regulations.	INFORMATIO N ACTION
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Phil Spears, Standards and Assessment Division, presented the proposed regulations to the Board. He explained that the changes in regulations are a result of a new national testing

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program.

- ACTION: Ms. Hammer moved that the State Board approve the Emergency Regulations and the Notice of Proposed Rulemaking in accordance with the recommendations of CDE staff. Mr. Jenkins seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 29	California High School Exit Examination (CAHSEE): Including, but not Limited to, Adoption of Regulations on Accommodations.	INFORMATIO N ACTION
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Mr. Spears introduced Paul Ramsey, Vice President of ETS, the recently selected the California High School Exit Exam (CAHSEE) contractor, and Andy Latham, the project director for ETS. Mr. Ramsey stated that ETS is looking forward to working on CAHSEE. He believes that ETS is bringing together the best minds to work on this test. ETS is here to be the Department's and the Board's staff and will give its best advice. He concluded by stating that together, through the CAHSEE, we can create an incredible educational opportunity.

President Hasting advised ETS to put three-quarters of its efforts into quality control. It is an investment in keeping the Board's trust and the public's trust. Getting the scoring right is essential. Mr. Spears reported that the Department staff had an initial meeting with ETS and is very pleased with the ETS staff that is working on the test.

Mr. Spears noted that the proposed regulations before the Board had been sent out in October for a 15-day public review period. He asked Jan Chladek to report on the public comments received. Ms. Chladek summarized the comments received during the 15-day review period.

The following individuals spoke on this item:

Evelyn Abouhassar, California Foundation for Independent Living
Mary Hernandez, META
Maureen Culpepper, parent
Vicki McDaniel, California Foundation for Independent Living

Mrs. Joseph commented that she appreciated the testimony of the speakers. She is the grandparent of a learning disabled student. She expressed her opinion that for too long too many students have been labeled as learning disabled because they did not receive the necessary education. We are trying to bring up the performance of all students by providing the necessary support to students who are labeled as learning disabled. The Board has a waiver process to the exam for students who are not able to take the test because of a physical or learning disability.

Mr. Hill noted that the Department and the Board have spent considerable time discussing these regulations. The Department will follow the policy of the Board. However, Superintendent Eastin wanted to put on the record that she stands by her recommendations as outlined at the October meeting. Mr. Spears added that these are obviously sensitive and complicated issues.

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We have a responsibility to be sure that we communicate clearly to schools and assist them in administering the exam.

- ACTION: Mrs. Joseph moved that the State Board approve the regulations on accommodations for the California High School Exit Examination as presented in the agenda item. Mrs. Ichinaga seconded the motion. The motion was approved by a vote of 7-0-1. Mr. Nuñez did not vote on the motion.

ITEM 30	California High School Exit Examination (CAHSEE): Including, but not Limited to, Waiver Guidelines Related to Special Education Students.	INFORMATION ACTION
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Paul Warren, Deputy Superintendent, stated that there are two major policy issues. One is how the Board should define which disabilities qualify for a waiver. The other is what evidence of achievement the Board should require schools to submit on behalf of students for whom a waiver is requested. There are two additional issues to consider. One is that the Department does not have a good estimate of what the workload would be. The other issue is the question of timing; when is the appropriate time to ask for the waiver.

Mr. Warren noted that there were two draft versions of a waiver policy. One option is a one-step waiver process, and the other option is a two-step process. [Attachment 10.] Superintendent Eastin commented that one concern in developing a waiver process is that it not be burdensome to districts. Mr. Nuñez expressed concern about the bureaucratic nature of the waiver process.

President Hastings stated that special education students deserve the individualized treatment that this waiver process requires. Ms. Belisle observed that the Department staff has gone beyond the call of duty in bringing two policies to the Board. She stated her opinion that the two-part waiver process was not necessary because of proposed section 1219.5, which recognizes that students may take the exam with modifications, but their scores would not be valid. She added that the Department staff has made good progress on defining the disabilities covered by the waiver process. However, additional time and discussion is needed. Ms. Belisle clarified that these would be case-by-case, specific waivers, not general waivers.

President Hastings asked who would decide whether a student takes the test for the first time with modifications. Ms. Belisle responded that this decision would be based on the student's Individualized Education Program (IEP). Thus, the IEP team would make that decision. If the student achieves an equivalent passing score, then the waiver could come before the Board. President Hastings inquired what would be the best course for those students who are not sure if they will qualify under the waiver policy. Ms. Belisle replied that in her conversations with experts in the field, they recommend that some students should be encouraged to initially take the test without modifications to be given the opportunity to pass.

Ms. Goncalves expressed her concern about the impact on students who do not pass the test the first time they take it. She suggested that schools make students aware that not all students will

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pass the test the first time. Ms. Belisle added that it is also important to communicate that schools are required to provide additional help or remediation to students who do not pass the test. Mrs. Joseph commented that excellent reading-language arts intervention programs for English learners and students performing below grade level were submitted for adoption and the Board will have the opportunity to adopt those programs in January.

President Hastings requested that staff continue to work on the waiver policy in view of this discussion and bring it back to the Board for action in December.

ITEM 31	Golden State Examination (GSE): Including, but not Limited to, Implementing the Provisions of Senate Bill 233 in Linking the California Standards Test (CST) to the GSE.	INFORMATIO N ACTION
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Mr. Spears reported on the progress of the Intersegmental Coordinating Council that is looking at using the Golden State Exams (GSE) for the purpose of college placement. He informed the Board that under SB 233 the GSE is required to be administered as an augmentation to the California Standards Tests (CST), as additional items to the STAR test. SB 233 also requires a psychometric study of the GSE. This study must be completed by December 15, 2003. Mr. Spears walked the Board through the Department's proposed timeline and administrative structure for the implementation of the augmentation.

Mr. Mockler commented that as he reads SB 233, the GSE is the CST plus some augmentation of additional items. The new GSE must be aligned to the California standards. Superintendent Eastin noted that the Department has already been working on aligning the GSE to the standards. The major difference is that the GSE has more performance items. She added that the Department has been working with higher education toward using the GSE for possible placement and admissions purposes.

Mr. Mockler stated that the GSE will include all or part of the CST. Testing the standards is still the goal of the new GSE.

Ms. Tacheny noted that the Board has not yet set policy in this important area. She drew her colleagues' attention to a policy drafted for their consideration. [Attachment 11.] Ms. Tacheny stated that the first point of the policy reaffirms that the CST will be the measure of progress towards the standards. The policy recognizes that as the purposes of the GSE change, it will need to be reviewed for psychometric qualities. More rigor is needed for the purposes of college placement, credits, and admissions. The policy also restates the Board's commitment to releasing and rotating test items. The first priority is to move on the English-language arts test in grade 11, in part because of the California State University system's commitment to using an augmented GSE for placement.

Considerable discussion ensued. President Hasting concluded the discussion with the comment that as discussion on this policy continues, the Board needs to be explicit about the trade-offs between reducing testing time and changing the GSE for higher education purposes. He added

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that if the Department came to the Board with major changes in the blueprints for the CST, there would be resistance to the changes.

President Hastings requested that the discussion be continued next month, which would allow the Board more time to review and consider the proposed policy.

ITEM 32	The Standardized Testing and Reporting (STAR) Settlement (<i>California Department of Education et al. v. San Francisco Unified School District, et al.</i>): Waiver policy relating to the Public Schools Accountability Act and the impact of the scores of English learners.	INFORMATIO N ACTION
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This item was deferred to December.

ITEM 33	Standardized Testing and Reporting (STAR) Program: Review of Revised 2002 Stanford 9 and California Standards Test Score Reports.	INFORMATIO N ACTION
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Mr. Spears provided the Board with a sample parent report from last year. [Attachment 12.] He sought Board input on making the score reports a parent-friendly communication tool.

Ms. Tacheny suggested that as the report is developed people with graphic design expertise be involved and there be research on what information parents would find useful. President Hastings stated that it was his understanding that the end of November was the desired date for completion of the report design. For this year, he asked for Board opportunity to review the draft of the report design. For future years, he asked for a process that addresses the redesigning of the report in a more systematic way.

Ms. Hammer emphasized that good graphic design is very important. She suggested that the Department staff look at examples of reports from other states. [Attachment 13.] Ms. Tacheny commented that given the timeline for the development of this year's report, she would recommend that the Executive Director review the redesigned report and approve it on behalf of the Board.

- It was agreed that CDE and State Board staff working with representatives of the STAR contractor (Harcourt Educational Measurement) would do their best in the time available to format the 2002 score reports taking into account (1) the need to include all essential information and (2) the desire to present the information in a way that is clear, eye-catching, and easily understood by the target audiences.

Mrs. Joseph inquired about the progress on exemplars for STAR and whether they would be available to the field and parents. Mr. Spears replied that there was no funding for the workbooks that would have included the exemplars. He added that the Department is working on getting information to the field on the writing exams, including papers exemplifying different

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point scores.

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ITEM 34	Standardized Testing and Reporting (STAR) Program: Including, but not Limited to, Approval of Release of Final 10 Percent of 2001 Contract Costs for Harcourt Educational Measurement and CTB/McGraw-Hill.	INFORMATIO N ACTION
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President Hastings called for any questions or discussion. Hearing none, he asked for a motion on this item.

- ACTION: Ms. Hammer moved that the State Board approve (1) the release of the 10 percent withheld from the 2001 Harcourt Educational Measurement STAR contract after all contract work is completed in December 2001 and (2) the release of the 10 percent withheld from the 2001 CTB/McGraw Hill STAR contract for which all work has been completed. Ms. Tacheney seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 35	Standardized Testing and Reporting (STAR) Program: Planning for the 2003 STAR Program.	INFORMATIO N ACTION
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Mr. Warren reported on the Department's proposal to have three contracts for the 2003 STAR program. Three contracts are proposed to get the best possible quality. The Department may be able to save some money with three contracts through the competitive bidding process. The three-contract proposal is designed so that coordination is a fairly minimal challenge. Mr. Warren added that time is of the essence as there is an incredible amount of work to be done next year.

Mr. Mockler noted that the Board had discussed the 2003 contract at the October meeting. He commented that the Department had done a good job preparing information for this item. He reported that both the Department and the Board staffs had spoken with test publishers to get their input. There is a capacity issue that is made worse by the state hiring freeze, and there is also an issue of test designation. The Board has the authority to designate the test publisher under one contract. In the designation process, all proposals can be reviewed and the Board is not limited to selecting the lowest bidder. If the Board goes with multiple contracts, the Board arguably jeopardizes its designation authority. In conversations with the Secretary for Education's Office, Board staff has been told that there are no additional resources for Department staff. He observed that this decision is a judgment call and, in his opinion, one contract (through the designation process) has less risk.

Mr. Hill offered two pieces of advice to the Board. The first was that the Board consider the need for a contractor that will offer the best policy advice possible. High quality policy advisors who can give the Board and the Department good guidance are a necessity. Second, if the Board chooses to go the designation route, the Board should keep in mind that it is centralizing the decision-making process and be cognizant of this responsibility. The designation process must

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instill confidence in the field and the public.

Ms. Hammer acknowledged the good work of Mr. Warren and his staff. She thanked Mr. Hill for his comments.

- ACTION: Ms. Tacheny moved that the State Board (1) direct CDE staff to prepare a single Invitation to Submit covering all parts of the STAR Program (including the norm-referenced and California Standards Tests) using a designation process and (2) request that CDE staff bring to the State Board for approval at the December 2001 meeting both the Invitation and the specific protocol of the designation process. [It was understood that presentation and/or approval of the Invitation and designation process may need to be postponed to the January 2002 meeting. It was also understood that development of Invitation and designation process to be presented to the State Board would be guided by two priorities outlined by the Chief Deputy Superintendent: (1) the ability of a contractor selected through the designation process to provide the highest quality of professional advice regarding the development of the STAR Program (as the program proceeds through the complex series of steps confronting it) needs to be the primary consideration; and (2) all aspects of the designation process (e.g., who participates, who evaluates, how we communicate) must be designed to instill public confidence that the process is yielding the best possible policy decisions for the STAR Program.] Mrs. Joseph seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 36	Standardized Testing and Reporting (STAR) Program: Regional Public Hearing on Proposed Performance Standards (Levels).	PUBLIC HEARING
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President Hastings opened the Public Hearing at 12:54 p.m.

Mr. Spears noted that Mr. Geeting had attended both of the other regional public hearings and asked him to report on the comments received at those hearings. Mr. Geeting summarized the comments from the other regional public hearings. He thanked the Santa Clara County Office of Education and the Riverside County Office of Education for hosting the hearings.

The following individuals spoke on this item:

Michelle LePatner

Alice Petrossian, representing the Association of California School Administrators.

President Hastings adjourned the Public Hearing at 1:08 p.m.

Ms. Hammer asked for clarification on the public comment that the standards be set as preliminary standards. Mr. Mockler replied that calling the standards preliminary would, in theory, make it easier to change the performance standards. President Hastings commented that in a criterion-referenced assessment system, what the students should know ought drive the performance standards. Mr. Hill agreed that the Board should not go down the road of

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preliminary standards.

Mr. Mockler commented on the importance of how the performance standards are explained to parents. California has high standards, and our tests are hard. Ms. Goncalves added that because the tests do not influence students' grades, students often do not take the tests seriously. Students need to understand the importance of the tests.

ITEM 37	Standardized Testing and Reporting (STAR) Program: Adoption of Performance Level Cut Scores for Grade 4 and 7 English Language Arts, Mathematics, Science, and History-Social Science.	INFORMATION ACTION
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President Hastings called for a motion on the performance standards.

- ACTION: Ms. Hammer moved that the State Board do the all of the following with respect to performance standards (levels):
 - (1) Continue in 2002 and beyond the five performance standard (level) designations for English-language arts that were used in 2001.
 - (2) Approve the use of the same five performance standard (level) designations in 2002 and beyond for mathematics, history-social science, and science, except as noted in (4) below.
 - (3) Approve the proposed cut scores (minimum number and percentage of correct responses) on the California Standards Tests that determine the performance standards (levels), including the adjusted cut scores for English-language arts at grades four and seven to incorporate the direct writing assessment, recognizing that, for use in reporting in 2002 and beyond, the cut scores will be converted to scaled scores that comparably reflect student achievement.
 - (4) Not approve cut scores to determine performance standards (levels), and thus not have performance standards (levels), for integrated mathematics and integrated science courses because of the insufficiency of information on which to base them.
 - (5) In 2002 and beyond, determine that the objective of California's educational system is for all students to achieve at or above the proficient performance standard (level). For English-language arts, this reflects the continuation in 2002 and beyond, of the determination made in 2001.
 - (6) Commit itself to re-evaluating the cut scores that establish each of the performance standards (levels) following the 2007 administration of the California Standards Tests. For English-language arts, this reflects a continuation the commitment made in 2001.

Ms. Tacheny seconded the motion. The motion was approved by a vote of 7-0-1. Mr. Nuñez did not vote on the motion.

Adjournment: President Hastings adjourned the meeting at 1:16 p.m.

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Respectfully submitted

Deborah Franklin
Education Policy Consultant

13 Attachments